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FEDERAL COMMUNICATIONS COMMISSION
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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	
Jurisdictional Separations Reform and Referral to the Federal-State Joint Board	)	CC Docket No. 80-286
	)	
Comments on the Separation Simulation Cost Study Tool	)	DA 99-2677
	)	

COMMENTS OF BELL ATLANTIC [1] ON SEPARATIONS SIMULATED COST STUDY TOOL

The proposed separations "tool" is a flawed solution in search of a problem. In prior filings, the state Joint Board members have endorsed the general concept of a freeze of separations factors. Rather than establish such a freeze, the state members' proposal here is a step backward – a suggested tool to make fundamental realignments of separations factors because of the growth of Internet usage. But no such change is necessary. The growth of the Internet does not change the fundamental joint use of network facilities, and separations rules have long abandoned any effort to establish artificial links between usage and common line separations factors. Regardless, the model is flawed: it merely assumes its major conclusions and is not a reliable predictor of future separations impacts.

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[1] The Bell Atlantic telephone companies ("Bell Atlantic") are Bell Atlantic-Delaware, Inc.; Bell Atlantic-Maryland, Inc.; Bell Atlantic-New Jersey, Inc.; Bell Atlantic-Pennsylvania, Inc.; Bell Atlantic-Virginia, Inc.; Bell Atlantic-Washington, D.C., Inc.; Bell Atlantic-West Virginia, Inc.; New York Telephone Company; and New England Telephone and Telegraph Company.

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I. The Joint Board Should Adopt A Freeze of Separations Factors

In their earlier report, the state members of the Joint Board recognized that decreased dependence on separated costs means that a freeze of separations factors is an appropriate interim policy step on the way toward complete elimination of the separation of costs by regulatory jurisdiction. In particular, the state members recognized that the move to price cap regulation, which cuts the link between costs and price setting, has reduced (if not eliminated) the reliance on separated cost, even for services still under regulation. *See* State Members' Report at 5. The state members also recognized that some basic separation of costs is still necessary because separated costs would be used to protect incumbent local exchange carriers from confiscation should regulators attempt to reduce prices based on a forward looking cost measure that ignores actual costs.[2] State Members' Report at 4. The only way to evaluate a confiscation claim is to examine a carrier's actual costs on a jurisdictionally separated basis.

These considerations led the state members to two logical conclusions. First, that "for at least the next few years" there may be a continued need for "some form of separations," but that this need "does not compel the conclusion that any particular form of separations is required." State Members' Report at 6 (emphasis in original). Second, they concluded that the Joint Board should adopt an "interim measure" that "minimizes the anomalies while still providing state and federal regulators with the vital 'confiscation liability' information they require." State Members' Report at 15.

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[2] The FCC has also retained the lower formula adjustment, which, while rarely invoked, does rely on separated costs as a basis for price adjustments.

Rather than follow-through on their correct conclusion that the Commission should reform its rules to "minimize" separations anomalies, the state Joint Board members' proposal would facilitate create of new anomalies and disrupt ongoing rate restructuring with major separations changes. There is no need for such disruptive changes.

In particular, the state members attempt to justify their proposed tool by referencing two potential separations changes. Neither of these potential changes should be adopted.[3]

The state members posit the possibility of a complete restructuring of the allocation of the local loop as a result of one additional service – ADSL – which makes use of the local loop. While the state members take no position on such a drastic change, they speculate that ADSL service could be treated as a "private line service" that is assigned to the interstate jurisdiction with any voice investment treated as "incremental to ADSL investment." Formal Request From State Members at 5, 4. This is a topsy turvey deviation from the existing separations rules and precedents. As the Commission has recognized, "separations rules apportion costs among broadly defined classes of services" and they "are not intended to be sufficiently accurate to identify the costs incurred by individual services." *Jurisdictional Separations Reform and Referral to the Federal-State Joint Board*, Notice of Proposed Rulemaking, 12 FCC Rcd 22120 ¶ 26, n.53 (1997).

[3] In this Notice, the Commission has only raised the issue of the usefulness of the proposed "tool" and not the underlying policy question of whether specific adjustments in the separations rules are appropriate. Bell Atlantic offers these comments on the adjustments mentioned in the state members' proposal in support of its position that there is no need to adopt the proposed "tool."

In the past, as new services that have made use of the local loop were introduced, there has been no suggestion that the separations factors should be revamped, regardless of the jurisdictional nature of the service. For example, Centrex services use loops to provide a totally new service. Yet no one has suggested that the current assignment of loop costs should be changed as a result of those (or other) services, nor should they be. ADSL is no different. To the extent that new costs are incurred as a result of this service, they are already properly assigned. The advent of ADSL service does not, however, provide a reason to reconfigure the allocation of basic loop costs.

Maintaining a steady allocation factor makes economic sense. Regulatory allocation of a shared cost is inherently arbitrary. *See* Affidavit of William E. Taylor at ¶¶ 7-10, Exhibit 1 of Separations Reform Comments of Bell Atlantic (filed Dec. 10, 1997). Thus, there is no economic basis for a reallocation based on the addition of a new service such as ADSL. Moreover, to the extent the Commission were to artificially lard non-economic costs onto the offering of new services, it undercuts the incentive to offer such service in the first place.

The only other attempt made by the state members to justify their proposed model is to argue that a reassignment may be needed as a result of the growing number of minutes related to Internet bound traffic. But existing networks do not have the ability to track the information necessary to make such direct assignment. Without a reasonable basis for direct assignment, any shift in cost would be arbitrary, and any reassignment of costs on this basis is unjustified.

II. The Proposed Model Assumes Its Results

The reason that the state members even mention the drastic separations changes discussed above is as justification for use of their proposed model. But even if the Joint Board should consider such separations changes, which they should not, the model is not a useful evaluation tool.

The tool purports to track the impact of usage-based separations changes. But usage is dynamic and the model is static. The only way the model can provide separations values is by assuming usage levels – the specific variable such a model purports to measure. Thus, the examples highlighted as representative of potential uses for the model *assume* the usage of a switch for interstate purposes, they *assume* the interstate usage for message trunks, they *assume* the proportion of conversation as Internet and they *assume* the proportion of ADSL capable loops.[4] Formal Request at 3, 4. The end result is that the model is only as good as its assumptions.[5]

Even if the Joint Board were to divine the correct assumptions – a process wholly external to the proposed model – those assumptions would only be valid for an instant. The growth and change in the Internet over the last few years has clearly demonstrated that static assumptions, no matter how close to current reality, are worthless as measures of future market changes. Because the model offers no basis for making the necessary

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[4] Even if reallocation based on ADSL sales were appropriate, which it is not, it is unclear why the model relies on ADSL capable loops – including those that are *not* used to provide ADSL service -- rather than actual ADSL loops.

[5] The model also bypasses many separations algorithms in favor of some "short-cut" calculations. Even with valid input assumption, these short-cuts do not produce consistently comparable results to an actual separations evaluation. For example, Bell Atlantic ran the identical assumptions on the model and using Bell Atlantic's actual separations algorithms. The model results varied widely, with differences up to 40% from the actual separations results.

assumptions, nor any method to address changes over time, it has no useful role as an evaluative tool for separations reform.

Conclusion

The Joint Board should reject use of the proposed tool, and instead adopt a freeze of separations factors until such time as separations of cost by jurisdiction is no longer necessary.

Respectfully submitted,

Edward Shakin

Michael E. Glover
Of Counsel

1320 North Court House Road
Eighth Floor
Arlington, VA 22201
(703) 974-4864

Attorney for the
Bell Atlantic telephone companies

December 17, 1999

CERTIFICATE OF SERVICE

I hereby certify that on this 17th day of December, 1999, copies of the foregoing "Comments of Bell Atlantic on Separations Simulated Cost Study Tool" were sent by first class mail, postage prepaid, to the parties on the attached list.

Steven E. McPherson

Steven E. McPherson

* Via hand delivery.

Magalie Roman Salas*
Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

ITS*

The Honorable William E. Kennard, Chairman*
Federal Communications Commission
445 12th Street, S.W.
Washington, DC 20554

The Honorable Susan Ness, Commissioner*
Federal Communications Commission
445 12th Street, S.W.
Washington, DC 20554

The Honorable Michael K. Powell, Commissioner*
Federal Communications Commission
445 12th Street, S.W.
Washington, DC 20554

The Honorable Diane Munns, Commissioner
Iowa Utilities Board
350 Maple Street
Des Moines, IA 50319-0069

The Honorable Joan H. Smith, Commissioner
Oregon Public Utility Commission
550 Capitol Street, N.E., Suite 215
Salem, OR 97310-2551

The Honorable Thomas L. Welch, Chairman
Maine Public Utilities Commission
State House Station #18
242 State Street
Augusta, ME 04333

Stephen Burnett*
Federal Communications Commission
Common Carrier Bureau, Accounting Policy Division
445 12th Street, S.W.
Washington, DC 20554

Will Cox, Federal Joint Board Staff Chair*
Federal Communications Commission
Common Carrier Bureau, Accounting Policy Division
445 12th Street, S.W.
Washington, DC 20554

Andy Firth*
Federal Communications Commission
Common Carrier Bureau, Accounting Policy Division
445 12th Street, S.W.
Washington, DC 20554

Robert Loube*
Federal Communications Commission
Common Carrier Bureau, Accounting Policy Division
445 12th Street, S.W.
Washington, DC 20554

Sheryl Todd*
Federal Communications Commission
Common Carrier Bureau, Accounting Policy Division
445 12th Street, S.W., Room 5-B540
Washington, DC 20554

Sharon Webber, Deputy Division Chief*
Federal Communications Commission
Common Carrier Bureau, Accounting Policy Division
445 12th Street, S.W.
Washington, DC 20554

Peter Bluhm
Vermont Public Service Board
Drawer 20
112 State St., 4th Floor
Montpelier, VT 05620-2701

Ingo Henningsen
Utah Public Service Commission
160 East 300 South, Box 146751
Salt Lake City, UT 84114-6751

Sandy Ibaugh
Indiana Utility Regulatory Commission
302 W. Washington, Suite E-306
Indianapolis, IN 46204

Lori Kenyon
Regulatory Commission of Alaska
1016 West [*7] 6th Ave, Suite 400
Anchorage, AK 99501-1963

Jonathan Lakritz
California Public Utilities Commission
Telecommunications Division
505 Van Ness Avenue, Room 3203
San Francisco, CA 94102

Samuel Loudenslager, State Joint Board Staff Chair
Arkansas Public Service Commission
1000 Center Street
Little Rock, AR 72201

David Lynch
Iowa Utilities Board
350 Maple Street
Des Moines, IA 50319-0069

J. Bradford Ramsay
National Association of Regulatory Utility Commissioners
P.O. Box 684
Washington, DC 20044-0683

Joel B. Shifman
Maine Public Utilities Commission
State House Station #18
242 State Street
Augusta, ME 04333

Fred Sistarenik
New York State Department of Public Service
Communications Division
3 Empire State Plaza
Albany, NY 12223

Cynthia Van Landuyt
Oregon Public Utility Commission
550 Capitol Street, N.E., Suite 215
Salem, OR 97310-2551